

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON
*Electronically Filed***

ANDREA HURLEY,

Plaintiff,

Hon. Robert Charles Chambers
3:19-cv-00700

**BARBOZA PRODUCE, LLC AND
BROGAN BURGESS,**

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Comes now the Plaintiff, Andrea Hurley for her first cause of action against the Defendants, Barboza Produce, LLC and Brogan Burgess, and in support of the same, state as follows:

1. The plaintiff, Andrea Hurley, is a resident of Kentucky.
2. The defendant, Barboza Produce, LLC, is a West Virginia Limited Liability Company, domiciled in Huntington, West Virginia.
3. The defendant, Brogan Burgess, is believed to be a citizen of Lavalette, West Virginia.
4. As there is diversity of citizenship between the parties and as the amount in controversy is in excess of the jurisdictional minimum of the United States District Court for the Southern District of West Virginia, pursuant to 28 U.S.C. §1332 this Court has both proper jurisdiction and venue.

5. On or about September 27, 2017, Andrea Hurley, was traveling along US 23 in a safe and prudent manner.
6. At the same time, Barboza Produce, LLC's vehicle, being driven by Burgess, was traveling in the same direction along US 23.
7. Barboza Produce, LLC's vehicle crashed into the back of Andrea Hurley's vehicle.
8. As a result of the crash, Andrea Hurley was injured.
9. Andrea Hurley had the right-of-way and Barboza Produce, LLC and Burgess chose not to observe Andrea Hurley's superior right-of-way.
10. Barboza Produce, LLC and Burgess owed a duty to Andrea Hurley to operate its vehicle in a careful manner and/or maintain control of its vehicle at all times, with regard for the safety and convenience of other vehicles upon the highway.
11. Barboza Produce, LLC and Burgess breached its duties to exercise care toward Andrea Hurley and the traveling public.
12. Barboza Produce, LLC and Burgess violated safety statutes during the operation of its motor vehicle.
13. The actions of the defendants, Barboza Produce, LLC and Burgess, were a substantial factor in causing the wreck, in violation of those aforementioned safety statutes.
14. The Andrea Hurley was a member of a protected class of individuals whose injuries are the kind the statutes were enacted to prevent.
15. As such, Barboza Produce, LLC and Burgess are negligent per se for their actions mentioned herein.
16. Burgess was employed by the defendant at the time of the crash.

17. Burgess was acting on behalf of and/or in the best interest of his employer and was in the course and scope of said employment when the crash occurred.
18. As a result of their employment relationship, Barboza Produce, LLC should be held vicariously liable for any and all damages sustained as a result of Burgess's negligent and/or reckless actions.
19. The defendants had a duty to inspect and/or keep in good repair their vehicles.
20. Barboza Produce, LLC had a duty to train its employees to be careful drivers and not cause crashes in company vehicles.
21. The Andrea Hurley has been severely injured as a direct result of Barboza Produce, LLC and Burgess' breach of their duties.
22. Andrea Hurley is entitled to punitive damages as a result of the defendant's reckless disregard for the rights, lives and safety of the traveling public, including the plaintiffs that were a substantial factor in causing the crash.

WHEREFORE, the Plaintiff prays for the following:

- A. A trial by jury.
- B. Andrea Hurley hereby demands compensatory damages for any past and future medical expense, any past and future pain and suffering, lost wages and any impairment in her ability to earn money in the future.
- C. Punitive damages against the defendants for any willful and/or reckless actions that contributed the crash.
- D. Costs herein expended.
- E. Any and all other relief the Court deems just and proper.

Respectfully submitted,

/s/Kyle R. Salyer

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